

## Part 1 General Provisions

### **63G-12-101 Title.**

This chapter is known as the "Utah Immigration Accountability and Enforcement Act."

Enacted by Chapter 18, 2011 General Session

### **63G-12-102 Definitions.**

As used in this chapter:

- (1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.
- (2) "Department" means the Department of Public Safety created in Section 53-1-103.
- (3) "Employee" means an individual employed by an employer under a contract for hire.
- (4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.
- (5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.
- (6) "Family member" means for an undocumented individual:
  - (a) a member of the undocumented individual's immediate family;
  - (b) the undocumented individual's grandparent;
  - (c) the undocumented individual's sibling;
  - (d) the undocumented individual's grandchild;
  - (e) the undocumented individual's nephew;
  - (f) the undocumented individual's niece;
  - (g) a spouse of an individual described in this Subsection (6); or
  - (h) an individual who is similar to one listed in this Subsection (6).
- (7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.
- (8) "Guest worker" means an undocumented individual who holds a guest worker permit.
- (9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.
- (10) "Immediate family" means for an undocumented individual:
  - (a) the undocumented individual's spouse; or
  - (b) a child of the undocumented individual if the child is:
    - (i) under 21 years of age; and
    - (ii) unmarried.
- (11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.
- (12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:
  - (a) a guest worker permit; and
  - (b) an immediate family permit.
- (13) "Permit holder" means an undocumented individual who holds a permit.

- (14) "Private employer" means an employer who is not the federal government or a public employer.
- (15) "Program" means the Guest Worker Program described in Section 63G-12-201.
- (16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).
- (17) "Public employer" means an employer that is:
  - (a) the state of Utah or any administrative subunit of the state;
  - (b) a state institution of higher education, as defined in Section 53B-3-102;
  - (c) a political subdivision of the state including a county, city, town, school district, local district, or special service district; or
  - (d) an administrative subunit of a political subdivision.
- (18) "Relevant contact information" means the following for an undocumented individual:
  - (a) the undocumented individual's name;
  - (b) the undocumented individual's residential address;
  - (c) the undocumented individual's residential telephone number;
  - (d) the undocumented individual's personal email address;
  - (e) the name of the person with whom the undocumented individual has a contract for hire;
  - (f) the name of the contact person for the person listed in Subsection (18)(e);
  - (g) the address of the person listed in Subsection (18)(e);
  - (h) the telephone number for the person listed in Subsection (18)(e);
  - (i) the names of the undocumented individual's immediate family members;
  - (j) the names of the family members who reside with the undocumented individual; and
  - (k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.
- (19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.
- (20) "Serious felony" means a felony under:
  - (a) Title 76, Chapter 5, Offenses Against the Person;
  - (b) Title 76, Chapter 5b, Sexual Exploitation Act;
  - (c) Title 76, Chapter 6, Offenses Against Property;
  - (d) Title 76, Chapter 7, Offenses Against the Family;
  - (e) Title 76, Chapter 8, Offenses Against the Administration of Government;
  - (f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and
  - (g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.
- (21)
  - (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.
  - (b) "Status verification system" includes:
    - (i) the e-verify program;
    - (ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;
    - (iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

- (iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).
- (22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).
- (23) "Undocumented individual" means an individual who:
  - (a) lives or works in the state; and
  - (b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.
- (24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Amended by Chapter 258, 2015 General Session

**63G-12-103 Immigration Act Restricted Account.**

- (1) There is created a restricted account within the General Fund known as the "Immigration Act Restricted Account."
- (2)
  - (a) The restricted account shall consist of:
    - (i) a fee collected under this chapter;
    - (ii) a fine collected under Section 63G-12-207;
    - (iii) civil penalties imposed under Section 63G-12-211 or 63G-12-306;
    - (iv) money appropriated to the restricted account by the Legislature; and
    - (v) interest earned on the restricted account.
  - (b) The restricted account shall earn interest.
- (3) The Legislature may appropriate money from the restricted account to:
  - (a) the department and the Office of the Governor to pay the costs associated with the implementation of Section 63G-12-202;
  - (b) the department to administer this chapter;
  - (c) the State Tax Commission for costs associated with implementing Section 63G-12-203;
  - (d) the attorney general for costs associated with:
    - (i) litigation related to this chapter;
    - (ii) a multi-agency strike force created under Section 67-5-22.7; or
    - (iii) a memorandum of understanding executed under Section 67-5-28; and
  - (e) the Identity Theft Restricted Account created in Section 67-5-22.7.

Amended by Chapter 369, 2012 General Session

**63G-12-104 Determining immigration status -- Transfer or maintenance of information.**

Except as limited by federal law and this chapter, any state or local governmental agency is not restricted or prohibited in any way from sending, receiving, or maintaining information related to the lawful or unlawful immigration status of an individual by communicating with any federal, state, or local governmental entity for any lawful purpose, including:

- (1) determining an individual's eligibility for any public benefit, service, or license provided by any federal agency, by this state, or by a political subdivision of this state;
- (2) confirming an individual's claim of residence or domicile if determination is required by state law or a judicial order issued pursuant to a civil or criminal proceeding in this state;
- (3) if the individual is an alien, determining if the individual is in compliance with the federal registration laws under 8 U.S.C. Sec. 1301 through 1306; or

- (4) a valid request for verification of the citizenship or immigration status of any person pursuant to 8 U.S.C. Sec. 1373.

Enacted by Chapter 18, 2011 General Session

**63G-12-105 Implementation to be consistent with federal law and civil rights.**

A state or local agency shall implement this chapter in a manner that:

- (1) is consistent with federal laws that regulate immigration;
- (2) protects the civil rights of all persons; and
- (3) respects the privileges and immunities of United States citizens.

Enacted by Chapter 18, 2011 General Session

**63G-12-106 Severability.**

- (1) If a provision of Part 2, Guest Worker Program, or the application of a provision to a person or circumstance is held invalid, the remainder of this chapter may not be given effect without the invalid provision or application so that the provisions of this chapter are not severable.
- (2) The following provisions are severable from this chapter:
  - (a) Title 76, Chapter 9, Part 10, Illegal Immigration Enforcement Act;
  - (b) Section 76-10-2901; and
  - (c) Section 77-7-2.

Enacted by Chapter 18, 2011 General Session